IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

LA.App..No. 1068 of 2007()

LAR.100/2001 of ADDL.SUB COURT,KOLLAM

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APPELLANT: CLAIMANT

K.C.LATHA,
THURAYILSSERIL, CHITTOOR WARD,
PONMANA MURI, PANMANA VILLAGE, KARUNAGAPPALLY,
KOLLAM DISTRICT.

BY ADV. SRI.B.SURESH KUMAR

RESPONDENTS: RESPONDENTS

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1. THE STATE OF KERALA,
REPRESENTED BY THE DISTRICT COLLECTOR,
KOLLAM, KOLLAM 691 013.

2. THE SPECIAL TAHSILDAR,
(LA) KMML, CHAVARA, KOLLAM.

BY G.P. SHRI L.G.SURESH BABU

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 14/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J

L.A.A.No.1068 of 2007

Dated, this the 14th day of August, 2007

JUDGMENT

Heard. Admitted. Learned Government Pleader takes notice for respondents. Appeal itself is heard and disposed of as agreed to both sides.

2. Appellant is the owner of 4.90 ares of land comprised in Survey No.17/14 of Panmana Village which was acquired for mining purpose for KMML. Appellant was paid land value at the rate of Rs.13,294/- per are. According to the appellant the Land Acquisition Officer ought to have awarded an amount of Rs.50,000/- per are. She filed application under Section 18 of the Kerala Land Acquisition Act to refer the matter to the competent court. Matter was referred to Sub Court, Kollam and numbered as L.A.R.No.100/2001. The case came up for trial on 11.7.2006. On that day the appellant was absent and the case was posted to 28.7.2006. On that day the appellant was absent and the case was posted to 31.7.2006. On that day also the appellant was absent and the learned Additional Sub Judge passed judgment and decree fixing the land value at the rate of Rs.13,294/- per are and other benefits. In other words the learned Sub Judge accepted the land value awarded by the Land Acquisition Officer and did not grant any enhancement. Challenging that decree and judgment this appeal is filed.

3. Learned counsel appearing for the appellant submits that the appellant could not appear before the trial court and give evidence because of the

reasons beyond her control. Considering the facts and circumstances of the case I am of the view that it is only just and proper that the appellant is given one more opportunity to adduce evidence to substantiate her case. For that purpose the matter is to go back.

In the result, L.A.A. is allowed. Decree and judgment passed by the Additional Sub Judge, Kollam in L.A.R.No.100/2001 are hereby set aside. Case is remanded. Learned Additional Sub Judge is directed to take L.A.R.No.100/2001 back to file and dispose of the same afresh in accordance with law after affording a reasonable opportunity to the appellant to adduce further evidence, if so advised. Parties shall appear before the court below on 25.9.2007.

K. PADMANABHAN NAIR
JUDGE

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